

# CERTIFICATE OF SERVICE

This is to certify that I have caused to be served on this day one (1) copy of **DOMINION ENERGY SOUTH CAROLINA, INC.'S FIRST SET OF DISCOVERY REQUESTS** via electronic mail and U.S. First Class Mail upon the persons named below, addressed as follows:

Jenny R. Pittman, Esquire  
**OFFICE OF REGULATORY STAFF**  
1401 Main Street, Suite 900  
Columbia, SC 29201  
*Email: [jpittman@ors.sc.gov](mailto:jpittman@ors.sc.gov)*

This 30th day of March, 2020.

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2019-130-E**

IN RE:	Ecoplexus, Inc.	)	
		)	
	Complainant,	)	<b>DOMINION ENERGY          SOUTH CAROLINA, INC.'S          FIRST SET OF          DISCOVERY REQUESTS</b>
	Dominion Energy South Carolina, Inc.,	)	
		)	
	Defendant.	)	
	_____	)	

**TO: ECOPLEXUS, INC.**

Pursuant to S.C. Code Ann. Regs. §§ 103-833 and 103-835, and Rule 36 of the South Carolina Rules of Civil Procedure (“SCRCP”), Dominion Energy South Carolina, Inc. (formerly South Carolina Electric & Gas Company) (“DESC”), by and through its undersigned counsel, requests that Ecoplexus, Inc. (“Solar Developer”) admit or deny the following requests for admission within the period required by Rule 36, SCRCP, and also answer the corresponding interrogatories under oath and produce all documents or other materials responsive to the corresponding requests for production (collectively, the “Discovery Requests”) within twenty (20) days of the date of service hereof, to the offices of Parker Poe Adams & Bernstein LLP, set forth below. Each matter for which admission or denial is requested shall be deemed admitted unless Solar Developer serves responses within the period required by Rule 36, SCRCP.

## **INSTRUCTIONS**

### **IT IS HEREIN REQUESTED:**

1. That all information, documents, and other materials be provided to the undersigned in the format as requested.
2. That all responses to the Discovery Requests be labeled using the same numbers as used herein.
3. That if the requested information, documents, or other materials are found in other places or in other exhibits, reference not be made to those, but, instead, that the information, documents, or other materials be reproduced and placed in the responses to the interrogatory or requests for production in the appropriate sequence.
4. That any inquiries or communications relating to questions concerning clarifications be directed to the undersigned.
5. That all exhibits be reduced to an 8.5" x 11" format.
6. If the response to any Discovery Request is that the information requested is not currently available, state why the information is not currently available and when the information requested will become available.
7. The Discovery Requests shall be deemed continuing so as to require Solar Developer to supplement or amend its responses as any additional information, documents, or other materials become available up to and through the date of hearing.
8. If a privilege not to answer is claimed, identify and describe each matter as to which privilege is claimed, the nature of the privilege, and the legal and factual basis for each such claim. In the event that a claim of privilege is raised pursuant to a common interest, provide the common interest agreement or joint defense agreement upon which the privilege is raised.

9. If a refusal to answer is based upon the grounds that the same would be unduly burdensome, identify the number and nature of documents needed to be searched, the location of the documents, and the number of man hours and costs required to conduct the search.

10. Answer based upon the entire knowledge of Solar Developer, including information in the possession of Solar Developer, its officers, members, parents, subsidiaries, directors, consultants, representatives, agents, experts, and attorneys, if any.

11. If any Discovery Request cannot be admitted, denied, or answered in full, admit, deny, or answer to the extent possible and specify the reasons for Solar Developer's inability to provide a complete admission, denial, or answer.

### **DEFINITIONS**

1. The term "Action" shall mean the action initiated by Solar Developer before the Commission in Docket No. 2019-130-E.

2. The term "address" shall include home address, mailing address, school address, and business address.

3. The term "Alleged LEO Date" shall mean April 25, 2018, the date on which Solar Developer claims in the Complaint that a LEO was established for each Project.

4. The term "Barnwell" shall mean Solar Developer's subsidiary, Barnwell PV 1, LLC, which seeks to develop a 74.9 MW-AC solar QF, together with Barnwell's employees, agents, consultants, experts, subsidiaries, affiliates, parents, and other operational or functional units and all officers, directors, owners, members, employees, agents, and representatives of these entities. It also includes all other persons acting on behalf of Barnwell.

5. The term "Barnwell IA" shall mean the Interconnection Agreement between DESC and Barnwell entered into on February 11, 2019.

6. The term “Commission” shall mean the Public Service Commission of South Carolina.

7. The term “communication(s)” shall mean the transmittal of information by any means, written, oral, electronic or otherwise.

8. The term “Complaint” shall mean the Complaint filed by Solar Developer with the Commission on April 15, 2019, in the above-referenced docket.

9. The term “DESC” shall mean Dominion Energy South Carolina, Inc., formerly South Carolina Electric & Gas Company, together with its employees, agents, consultants, experts, subsidiaries, affiliates, parents, and other operational or functional units and all officers, directors, owners, members, employees, agents, and representatives of these entities. It also includes all other persons acting on behalf of DESC.

10. The terms “document(s)” shall mean all written, recorded or graphic matters whatsoever and all non-identical copies thereof, including but not limited to papers, books, records, letters, photographs, correspondence, communications, electronic mail, text messages, social media records, telegrams, cables, telex messages, evidences of payment, checks, memoranda, notes, notations, work papers, transcripts, minutes, reports, recordings of telephone or other conversations, statements, summaries, opinions, studies, analyses, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, advertisements, guidelines, charts, manuals, brochures, publications, schedules, price lists, subscription lists, customer lists, journals, statistical reports, desk calendars, appointment books, diaries, lists, tabulations, newsletters, drafts, proofs, galleys, or other prepublication forms of materials, telephone lists or indexes, rolodexes, computer printouts, data processing program libraries, data processing input and outputs, microfilm, microfiches, CD-ROMs, books of account, records or invoices reflecting

business operations, all records kept by electronic, photographic, or mechanical means, any notes or drafts relating to any of the foregoing, and any other documents as defined in Rule 34 of the SCRCF of any kind in Your possession, custody or control or to which You have access or knowledge of its existence. The above list is not meant to be exhaustive but to demonstrate the breadth of the items that may be considered “documents.”

11. The term “FERC” shall mean the Federal Energy Regulatory Commission.

12. The term “First Milestone Payments” shall mean, collectively, the first milestone payment under each of the Barnwell IA and Jackson IA.

13. The term “IAs” shall mean the Barnwell IA and Jackson IA, collectively.

14. The terms “identify” or “identity” used with reference to an individual means to state his or her full name, present or last known address, present or last known position and business affiliation, and employer, title, and position at the time in question. If the person was an officer, director, trustee, commissioner, or employee, also state the job title and areas of responsibility.

15. The terms “identify” or “identity” used with reference to a writing means to state the date, author, type of document (e.g., letter, memorandum, telegram, chart, note, application, etc.), or other means of identification, and its present location or custodian. If any such document is no longer in Your possession or subject to Your control, state what disposition was made of it.

16. The term “Jackson” shall mean Solar Developer’s subsidiary, Jackson PV 1, LLC, which seeks to develop a 71 MW-AC solar QF, together with Jackson’s employees, agents, consultants, experts, subsidiaries, affiliates, parents, and other operational or functional units and all officers, directors, owners, members, employees, agents, and representatives of these entities. It also includes all other persons acting on behalf of Jackson.

17. The term “Jackson IA” shall mean the Interconnection Agreement between DESC and Jackson entered into on February 11, 2019.

18. The term “LEO” shall mean a legally enforceable obligation, as contemplated by 18 C.F.R. § 292.304(d)(2)(ii).

19. The term “NOC Form” shall mean DESC’s Notice of Commitment to Sell Form, which was approved by the Commission in Docket No. 2019-184-E.

20. The term “person” shall mean any individual, partnership, firm, association, corporation, government agency, or other business or legal entity.

21. The term “PPA” shall mean Power Purchase Agreement.

22. The term “PURPA” shall mean the Public Utility Regulatory Policy Act of 1978, 16 U.S.C. §§ 2601, et seq.

23. The term “Projects” shall mean, collectively, the solar QFs that Barnwell and Jackson seek to develop and operate on DESC’s system.

24. The term “QF” shall mean a Qualifying Facility as defined under PURPA.

25. The terms “relating to,” “relate to,” and “related to” shall mean directly or indirectly, expressly or implied, mentioning, describing, pertaining to, being connected with, or reflecting upon the subject matter of the specific request.

26. The terms “Solar Developer,” “You,” and “Your” shall mean Ecoplexus, Inc., together with its employees, agents, consultants, experts, subsidiaries, affiliates, parent, and other operational or functional units and all officers, directors, owners, members, employees, agents, and representatives of these entities. The terms also include all other persons acting on behalf of Solar Developer.

27. The term “SCGIP” shall mean the Commission-approved South Carolina Generator Interconnection Procedures, Forms, and Agreements currently in effect.

28. Please construe “and” as well as “or” either disjunctively or conjunctively as necessary to bring within the scope of these Discovery Requests any information which might otherwise be construed outside their scope.



**REQUESTS FOR ADMISSIONS**

1. Admit that the Barnwell IA, prior to termination, was a valid written agreement signed by Barnwell.
2. Admit that the Jackson IA, prior to termination, was a valid written agreement signed by Jackson.
3. Admit that You read, and agreed to, the Barnwell IA before signing it.
4. Admit that You read, and agreed to, the Jackson IA before signing it.
5. Admit that DESC provided to You draft interconnection agreements for the Projects in March of 2017.
6. Admit that, prior to executing the IAs, Your engineer, Fernando Blanco, met with DESC on November 16, 2018, to discuss the interconnection studies completed on the Projects.
7. Admit that Fernando Blanco characterized the above-referenced meeting with DESC as a “productive session.”
8. Admit that the IAs were subject to and governed by the SCGIP.
9. Admit that You read, and agreed to, Section 5.2.4 of the SCGIP as it relates to the IAs.
10. Admit that Solar Developer received multiple drafts of a proposed PPA for each of the Projects prior to the time You executed, and agreed to, the IAs.
11. Admit that You read such draft PPAs prior to the time You executed, and agreed to, the IAs.
12. Admit that, since the time You executed, and agreed to, the IAs, the Commission approved the NOC Form for implementation by DESC.
13. Admit that neither Barnwell nor Jackson have executed a PPA.

14. Admit that the Barnwell IA does not include provisions related to interconnection of battery storage.

15. Admit that the Jackson IA does not include provisions related to interconnection of battery storage.

16. Admit that neither the FERC, a state regulatory body, nor a court of law has held that Section 5.2.4 of the SCGIP violates PURPA.

### **INTERROGATORIES**

1. Give the names and addresses of persons known to You to have knowledge of, or be witnesses concerning, the facts of the Action and indicate whether written or recorded statements have been taken from these persons and indicate who has possession of such statements.

2. List the names and addresses of each expert witness whom You propose to use as a witness at the trial or hearing of the Action and state:

- a. The subject matter on which the expert witness is expected to testify;
- b. The conclusions and opinions of the expert witness and the basis therefor;
- c. The qualifications of each expert witness and the basis therefor; and
- d. The identity of any written reports of the expert witness regarding the claims that are the subject of the Action.

3. For each person known to You to have knowledge, or be a witness concerning, the facts of the Action, set forth either a summary sufficient to inform DESC of the important facts known to or observed by such persons, or provide a copy of any written or recorded statements taken from such persons.

4. Set forth an itemized statement of any and all damages You allege You sustained as a result of any act or omission of DESC.

5. Identify and set forth all communications made by or received by You related to the allegations in the Complaint. For each such communication, identify the subject of the communication, the type of communication, the names of the persons involved, the date and time of the communication, the place of the communication, and the person(s) who made the statement(s).

6. Describe in detail and with specificity all communications made by You to all potential financing parties or potential purchasers of either or both of the Projects regarding:

- a. The Projects;
- b. Financing for the Projects; and
- c. The First Milestone Payments; and
- d. Interconnection costs for the Projects.

7. Identify all persons You solicited to fund or finance either or both of the Projects.

8. Identify all persons that committed to fund or finance either or both of the Projects and the amounts each such person committed.

9. Describe in detail and with specificity the commercial terms offered by DESC for the Projects that have resulted in “commercial terms that are unreasonable and . . . not financeable,” as alleged in the Complaint.

10. Describe in detail and with specificity each instance in which a party denied either or both of the Projects financing due to the provisions in the IAs that You believe contain “commercial terms that are unreasonable and . . . not financeable,” as alleged in the Complaint.

11. Describe in detail and with specificity the information provided by You to DESC on or prior to the Alleged LEO Date that reasonably evidences each Project’s:

- a. Ability to deliver its electrical output to DESC within 365 days of the Alleged LEO Date;
- b. Ability to deliver its full electrical output to DESC for a period of at least 10 years; and
- c. Control over its project site for a period of at least 10 years.

12. Describe in detail each action You have taken which evidences a binding commitment to develop the Projects.

13. Explain whether you plan to engineer, design and/or construct the Projects or whether you would engage a third party.

14. Identify any third parties you either engaged or plan to engage to assist with the engineering, design and/or construction of the Projects.

15. Identify the date upon which the final schematics for the Projects were submitted to DESC.

16. Describe in detail and with specificity any deviations from the final schematics provided to DESC that You believe would be required if the Projects were to be re-instated into the interconnection queue.

17. Describe in detail and with specificity the “public interest” contemplated by S.C. Code § 58-27-980 that would allow or require the Commission to revive the IAs.

18. Describe in detail and with specificity all matters—whether ongoing or otherwise—in front of the FERC, a state regulatory body, or a court of law in which You have claimed that transmission upgrades assigned to You in an interconnection agreement are invalid, discriminatory, unreasonably high, or otherwise inappropriate.

19. Describe in detail and with specificity all matters—whether ongoing or otherwise—in front of the FERC, a state regulatory body, or a court of law in which You claimed the existence of a LEO.

20. Describe in detail and with specificity the provisions of PURPA that dictate the methods by which DESC is required to study a QF’s interconnection service.

21. Describe in detail and with specificity how DESC failed to assess interconnection costs “on a nondiscriminatory basis with respect to other customers with similar load characteristics,” as alleged in the Complaint.

22. Describe in detail and with specificity those “terms and conditions in [the PPAs] and [IAs] for the Projects that violate PURPA, Section 292, and Commission orders,” as alleged in the Complaint.

23. Identify all Commission regulations or requirements that require DESC to provide You with the specific case models DESC used to evaluate the impacts of the Projects on DESC’s system.

24. Describe in detail and with specificity any and all of DESC’s study assumptions and methodologies used on the Projects that were “arbitrary” and “unnecessarily conservative,” as alleged in the Complaint.

25. Identify all information that Your engineer, Fernando Blanco, requested from DESC that DESC refused to provide during the meeting with DESC on November 16, 2018.

26. Describe in detail and with specificity the instances in which You believe DESC failed to “negotiate in good-faith,” as alleged in the Complaint.

27. Identify all instances where the Commission affirmatively granted injunctive relief.

**REQUESTS FOR PRODUCTION**

1. Produce any and all statements, written, oral, or transcribed, of any individual that relate in any manner to the claims set forth in the Action.
2. Produce all documents relied upon or referred to by You in responding to DESC's First Set of Interrogatories and First Set of Requests for Admission served contemporaneously herewith.
3. Produce all reports or other documents prepared by any expert witness retained by You in this case, including a current curriculum vitae.
4. Produce all documents and communications relating in any way to the Action, including, without limitation, all documents and communications You intend to use or rely on in the Action.
5. Produce all documents, notes, and communications prepared, maintained, made, known, sent, or received by You concerning the subject matter of the Action.
6. Produce all documents and communications You have provided to or received from DESC or anyone acting on DESC's behalf regarding the subject matter of the Action.
7. Produce all documents and communications evidencing any damages You allege You sustained as a result of any act or omission of DESC.
8. Produce all communications made by or received by You related to the allegations in the Complaint, including, without limitation, the IAs or the Projects.
9. Produce all documents and communications that relate to the financing of the Projects.
10. Produce all tax returns for Solar Developer from January 1, 2017, to present.

11. Produce all financial statements for Solar Developer from January 1, 2018, to present including, but not limited to, ledgers, profit and loss statements, balance sheets, cash flow statements, and bank statements.

12. Produce all communications and documents referencing potential financing for either or both of the Projects.

13. Produce all communications and documents referencing or indicating that the commercial terms offered by DESC for the projects were unreasonable or unfinanceable.

14. Produce all communications, documents, or materials that evidence DESC's alleged discriminatory behavior, invalid interconnection costs, and unreasonable and unfinanceable commercial terms.

15. Produce all communications and documents relating to information provided by You to DESC on or prior to the Alleged LEO Date that reasonably evidences each Project's:

- a. Ability to deliver its electrical output to DESC within 365 days of the Alleged LEO Date;
- b. Ability to deliver its full electrical output to DESC for a period of at least 10 years; and
- c. Control over its project site for a period of at least 10 years.

16. Produce all communications and documents evidencing instances where You believe DESC failed to negotiate in good faith.

17. Produce all communications and documents relating to the Projects that were produced by or addressed to Your engineer, Fernando Blanco.

18. Produce all communications and documents relating to the construction of the Projects.



19. To the extent not produced in Request 18, produce all communications and documents relating to the engineering, design or construction of the Project that were produced by or addressed to a third party other than DESC.

Respectfully Submitted,

s/ J. Ashley Cooper

K. Chad Burgess, Esquire

Matthew W. Gissendanner, Esquire

**Dominion Energy South Carolina, Inc.**

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***Attorneys for Dominion Energy South Carolina,  
Inc.***

Cayce, South Carolina  
This 30th day of March, 2020.